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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 25th January, 1994/Magha 5, 1915 (Saka).

THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) AMENDMENT ORDINANCE, 1994

No. 3 OF 1994

Promulgated by the President in the Forty-fourth Year of the Republic of India.

An Ordinance to amend the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (*1*) This Ordinance may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994.

(*2*) It shall come into force at once.

Amendment of section 5.

2. In section 5 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (hereinafter referred to as the principal Act), after sub-section (*2*), the following sub-section shall be inserted, namely:— 27 of 1992.

"(*3*) When the office of the Judge of the Special Court is vacant by reason of absence or leave, the duties of the office shall be performed by such Judge of the High Court within the local limits of whose jurisdiction the Special Court is situated as the Chief Justice of that High Court may, with the concurrence of the Chief Justice of India, nominate for the purpose and the Judge so appointed shall have all the jurisdiction and powers of the Judge of the Special Court including the powers to pass final orders.".

Insertion of new sections 9A and 9B.

3. After section 9 of the principal Act, the following section shall be inserted, namely:—

Jurisdiction, powers, authority and procedure of Special Court in civil matters.

"9A. (*1*) On and from the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, the Special Court shall exercise all such jurisdiction, powers and authority as were exercisable, immediately before such commencement, by any civil court in relation to any matter or claim—

(*a*) relating to any property standing attached under sub-section (*3*) of section 3;

(*b*) arising out of transactions in securities entered into after the 1st day of April, 1991, and on or before the 6th day of June, 1992, in which a person notified under sub-section (*2*) of section 3 is involved as a party, broker, intermediary or in any other manner.

(*2*) Every suit, claim or other legal proceeding (other than an appeal) pending before any court immediately before the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, being a suit, claim or proceeding, the cause of action whereon it is based is such that it would have been, if it had arisen after such commencement, within the jurisdiction of the Special Court under sub-section (*1*), shall stand transferred on such commencement to the Special Court and the Special Court may, on receipt of the records of such suit, claim or other legal proceeding, proceed to deal with it, so far as may be, in the same manner as a suit, claim or legal proceeding from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Special Court may deem fit.

(*3*) On and from the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Ordinance, 1994, no court other than the Special Court shall have, or be entitled to exercise, any jurisdiction, power or authority in relation to any matter or claim referred to in sub-section (*1*).

(*4*) While dealing with cases relating to any matter or claim under this section, the Special Court shall not be bound by the procedure laid down by the Code of Civil Procedure, 1968, but shall be, 5 of 1908.

guided by the principles of natural justice, and subject to the other provisions of this Act and of any rules, the Special Court shall have the power to regulate its own procedure.

(5) Without prejudice to the other powers conferred under this Act, the Special Court shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office; 1 of 1872.

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) reviewing its decisions;

(*g*) dismissing a case for default or deciding it *ex parte*;

(*h*) setting aside any order of dismissal of any case for default or any order passed by it *ex parte*; and

(*i*) any other matter which may be prescribed by the Central Government under sub-section (*1*) of section 14.

Powers of the Special Court in arbitration matters.

9B. (*1*) The Special Court shall have the jurisdiction and powers of a Court conferred under the Arbitration Act, 1940 to decide any question forming subject matter of a reference relating to any matter or claim mentioned in sub-section (*1*) of section 9A. 10 of 1940.

(*2*) Every suit or other proceeding (other than an appeal) in relation to any matter or claim referred to in sub-section (*1*) of section 9A pending before any Court and governed by the Arbitration Act, 1940, immediately before the date of commencement of the Special Court (Trial of Offences relating to Transactions in Securities) Amendment Ordinance, 1994 shall stand transferred on that date to the Special Court. 10 of 1940.

Explanation.—For the purposes of this section, the expressions "Court" and "reference" shall have respectively the same meanings as defined under clauses (c) and (*e*) of section 2 of the Act, 1940. 10 of 1940.

Amendment of section 10.

4. In section 10 of the principal Act,—

(*a*) in sub-section (*1*), after the word "Code", the words and figures "the Code of Civil Procedure, 1908 or the Arbitration Act, 1940" shall be inserted; 5 of 1908. 10 of 1940.

(b) in sub-sections (*1*) and (*2*), after the word "judgement", the word "decree" shall be inserted.

Insertion of new section 11A.

5. After section 11 of the principal Act, the following section shall be inserted, namely:—

Power to punish for contempt.

"11A. The Special Court shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971, shall have effect subject to the modifications that— 70 of 1971.

(*a*) the references therein to a High Court shall be construed as including a reference to such Special Court;

(*b*) the references to the Advocate-General in section 15 of the said Act, shall be construed, in relation to the Special Court, as a reference to the Attorney-General or the Solicitor-General or Additional Solicitor-General.".

SHANKER DAYAL SHARMA,
President.

K. L. MOHANPURIA,
Secy. to the Govt. of India.

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